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ATTORNEYS FOR Defendant
Pacific Specialty Insurance Company

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SELECT PORTFOLIO SERVICING, INC.,

Plaintiff,

vs.

PACIFIC SPECIALTY INSURANCE
COMPANY; ADEL M. MAHMOUD, JR.,

Defendants.

Case No. C 14-00551 YGR

PACIFIC SPECIALTY INSURANCE
COMPANY'S ANSWER TO COMPLAINT FOR
DECLARATORY RELIEF AND SPECIFIC
PERFORMANCE

Defendant PACIFIC SPECIALTY INSURANCE COMPANY by and through its undersigned counsel, hereby respectfully submits this Answer and Defenses to the Complaint for Declaratory Relief and Specific Performance ("Complaint"). Because the Complaint contains numerous assumptions and argumentative assertions, each and every allegation of the Complaint, including each and every assumption implicit therein, is hereby denied, except to the extent expressly admitted below.

ANSWER

In response to the specific allegations of the First Amended Complaint, defendants aver as follows:

1. Defendant denies that it is in a dispute with either of the other two parties about the

1 payment of insurance funds. Defendant avers that the remaining allegations of Paragraph 1 consist of
2 mere conclusions of law to which no response is required. To the extent a response is deemed required,
3 defendant denies the remaining allegations as set forth in Paragraph 1.

4 2. Defendant is without knowledge or information sufficient to form a belief as to the truth
5 of the allegations of Paragraph 2 and on that basis denies those allegations.

6 3. Defendant admits the allegations of Paragraph 3.

7 4. Defendant is without knowledge or information sufficient to form a belief as to the truth
8 of the allegations of Paragraph 4 and on that basis denies those allegations.

9 5. Defendant is without knowledge or information sufficient to form a belief as to the truth
10 of the allegations of Paragraph 5 and on that basis denies those allegations.

11 6. Defendant admits the allegations of Paragraph 6.

12 7. Defendant admits that the insurance funds at issue exceed the sum of \$75,000.

13 8. Defendant admits that there is a dispute between plaintiff and defendant Maumoud.
14 Defendant denies the remaining allegations as set forth in Paragraph 8.

15 9. Defendant is without knowledge or information sufficient to form a belief as to the truth
16 of the allegations of Paragraph 9 and on that basis denies those allegations. To the extent a response is
17 deemed required, defendant denies the allegations as set forth in Paragraph 9.

18 10. Defendant is without knowledge or information sufficient to form a belief as to the truth
19 of the allegations of Paragraph 10 and on that basis denies those allegations. To the extent a response is
20 deemed required, defendant denies the allegations as set forth in Paragraph 10.

21 11. Defendant admits it issued Policy Number ANG-0218413-09 effective November 9,
22 2012 through November 9, 2013. Defendant admits plaintiff is listed as a mortgage holder on Policy
23 Number ANG-0218413-09 and that there is a mortgage clause within that policy. Defendant denies the
24 remaining allegations as set forth in Paragraph 11.

25 12. Defendant admits the allegations of Paragraph 12.

26 13. Defendant admits the allegations of Paragraph 13.

27 14. Defendant admits that it issued two checks for the subject fire loss totaling \$104,164.59
28 by two separate checks.

1 14a. Defendant admits the allegations of Paragraph 14a.

2 14b. Defendant admits the allegations of Paragraph 14b.

3 15. Defendant admits that it issued replacement checks in December 2013. Defendant is
4 without knowledge or information sufficient to form a belief as to the truth of the remaining allegations
5 of Paragraph 15 and on that basis denies those allegations.

6 16. Defendant is without knowledge or information sufficient to form a belief as to the truth
7 of the allegations of Paragraph 16 and on that basis denies those allegations.

8 17. Defendant is without knowledge or information sufficient to form a belief as to the truth
9 of the allegations of Paragraph 17 and on that basis denies those allegations.

10 18. Defendant admits the allegations of Paragraph 18.

11 19. Defendant admits the allegations of Paragraph 19.

12 20. Defendant is without knowledge or information sufficient to form a belief as to the truth
13 of the allegations of Paragraph 20 and on that basis denies those allegations.

14 21. Defendant is without knowledge or information sufficient to form a belief as to the truth
15 of the allegations of Paragraph 21 and on that basis denies those allegations.

16 22. Defendant is without knowledge or information sufficient to form a belief as to the truth
17 of the allegations of Paragraph 22 and on that basis denies those allegations.

18 23. Defendant is without knowledge or information sufficient to form a belief as to the truth
19 of the allegations of Paragraph 23 and on that basis denies those allegations.

20 24. Paragraph 24 incorporates prior allegations by reference, and sets forth no additional
21 factual allegations. Accordingly, all defendants incorporate herein their prior responses to the
22 corresponding allegations.

23 25. Defendant denies that it is in a dispute with either of the other two parties about the
24 payment of insurance funds. Defendant is without knowledge or information sufficient to form a belief
25 as to the truth of the remaining allegations of Paragraph 25 and on that basis denies those allegations.

26 26. Defendant denies the allegations of Paragraph 26.

27 27. Defendant is without knowledge or information sufficient to form a belief as to the truth
28 of the allegations of Paragraph 27 and on that basis denies those allegations.

28. Defendant denies the allegations of Paragraph 28.

29. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 29 and on that basis denies those allegations.

30. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 30 and on that basis denies those allegations.

31. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 31 and on that basis denies those allegations.

32. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 32 and on that basis denies those allegations.

33. Paragraph 33 incorporates prior allegations by reference, and sets forth no additional factual allegations. Accordingly, all defendants incorporate herein their prior responses to the corresponding allegations.

34. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 34 and on that basis denies those allegations.

35. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 35 and on that basis denies those allegations.

36. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 36 and on that basis denies those allegations.

36a. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 36a and on that basis denies those allegations.

36b. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 36b and on that basis denies those allegations.

36c. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 36c and on that basis denies those allegations.

36d. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 36d and on that basis denies those allegations.

37. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 37 and on that basis denies those allegations.

1 37a. Defendant is without knowledge or information sufficient to form a belief as to the truth
2 of the allegations of Paragraph 37a and on that basis denies those allegations.

3 37b. Defendant denies the allegations of Paragraph 37b.

4 37c. Defendant is without knowledge or information sufficient to form a belief as to the truth
5 of the allegations of Paragraph 37c and on that basis denies those allegations.

6 38. Defendant is without knowledge or information sufficient to form a belief as to the truth
7 of the allegations of Paragraph 38 and on that basis denies those allegations.

8 39. Defendant is without knowledge or information sufficient to form a belief as to the truth
9 of the allegations of Paragraph 39 and on that basis denies those allegations.

10 40. Paragraph 40 incorporates prior allegations by reference, and sets forth no additional
11 factual allegations. Accordingly, all defendants incorporate herein their prior responses to the
12 corresponding allegations.

13 41. Defendant is without knowledge or information sufficient to form a belief as to the truth
14 of the allegations of Paragraph 41 and on that basis denies those allegations.

15 42. Defendant is without knowledge or information sufficient to form a belief as to the truth
16 of the allegations of Paragraph 42 and on that basis denies those allegations.

17 43. Defendant is without knowledge or information sufficient to form a belief as to the truth
18 of the allegations of Paragraph 43 and on that basis denies those allegations.

19 44. Defendant is without knowledge or information sufficient to form a belief as to the truth
20 of the allegations of Paragraph 44 and on that basis denies those allegations.

21 45. Defendant is without knowledge or information sufficient to form a belief as to the truth
22 of the allegations of Paragraph 45 and on that basis denies those allegations.

23 46. Defendant is without knowledge or information sufficient to form a belief as to the truth
24 of the allegations of Paragraph 46 and on that basis denies those allegations.

25 47. Paragraph 47 incorporates prior allegations by reference, and sets forth no additional
26 factual allegations. Accordingly, all defendants incorporate herein their prior responses to the
27 corresponding allegations.

28 48. Defendant denies the allegations of Paragraph 48.

49. Defendant admits the allegations of Paragraph 49.

50. Defendant denies the allegations of Paragraph 50.

51. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 51 and on that basis denies those allegations.

52. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 52 and on that basis denies those allegations.

53. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 53 and on that basis denies those allegations.

WHEREFORE, defendant prays as follows:

1. That plaintiff takes nothing by reason of its Complaint, that judgment be rendered in favor of defendant;

2. That defendant be awarded its costs of suit incurred in defense of this action; and

3. For such other relief as the Court deems proper.

AFFIRMATIVE DEFENSES

Defendant reserves the right to amend its pleadings and raise additional affirmative defenses as may be discovered during the course of these proceedings. In further response to the Complaint, defendant avers as follows:

First Defense

Plaintiff fails to state a claim against defendant upon which relief may be granted.

Second Defense

Plaintiff is not entitled to injunctive or declaratory relief because the remedies at law are adequate.

Third Defense

Plaintiff's claims may be barred, in whole or in part, by the applicable statute of limitations under California Code of Civil Procedure sections 335.1 and 340.

Fourth Defense

Plaintiff's claims may be barred, in whole or in part, by the application contractual limitations period.

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Fifth Defense

Plaintiff's claims may be barred, in whole or in part, by the applicable statute of limitations under California Code of Civil Procedure sections 335.1 and 340.

Sixth Defense

Any injury to plaintiff was due to and caused by the negligence and/or omissions of plaintiff to care for itself, which carelessness and/or negligence and/or omissions were the proximate cause of the damage, if any, to plaintiff.

Seventh Defense

Plaintiff's claims are barred by the doctrine of estoppel.

Eighth Defense

Plaintiff's claims are barred by waiver.

Ninth Defense

Plaintiff's claims are barred, in whole or in part, by the doctrine of laches.

Tenth Defense

Plaintiff's claims are barred, in whole or in part, by consent.

Eleventh Defense

Plaintiff's claims are barred, in whole or in part, by its failure to mitigate damages.

Twelfth Defense

The negligence of a third-party or parties was a superseding, intervening cause of plaintiff's injuries.

Thirteenth Defense

To the extent that plaintiff suffered any detriment, such detriment was caused or contributed to by plaintiff's negligence and damage, if any, should be reduced in direct proportion to its fault.

Fourteenth Defense

Any alleged injury and damages suffered by plaintiff was not caused by, or a result of any fault, act, or omission by defendant, but was caused by circumstances, persons, or entities, including plaintiff, for which defendant is not responsible, and for which defendant cannot be held liable.

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Fifteenth Defense

There is no coverage under Policy Number ANG-0218413-09 for the claims asserted as a result of said Policy's provisions, limitations, conditions or endorsements contained in or incorporated by reference, expressly or impliedly, in the Policy and conditions which apply to the Policy.

Sixteenth Defense

Even if the claims plaintiff has asserted were within the insuring agreements of Policy Number ANG-0218413-09 there is no coverage under the said Policy for the claims asserted as a result of exclusions contained in or incorporated by reference, expressly or impliedly, in said Policy.

Dated: March 11, 2014

CODDINGTON, HICKS & DANFORTH

By: /s/ Lee J. Danforth

Lee J. Danforth
Kathryn C. Klaus
Attorneys for Defendant
Pacific Specialty Insurance Company